

**From:** Terry Scanlon  
**To:** 'microsoft.atr(a)usdoj.gov'  
**Date:** 1/8/02 2:53pm  
**Subject:** Microsoft Settlement

Renata B. Hesse  
Trial Attorney  
Antitrust Division  
U.S. Department of Justice  
601 D Street NW  
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Washington, DC 20530-0001

Dear Ms. Hesse:

Microsoft Corporation has accepted the U.S. government's finding that it engaged in anti-competitive practices in violation of the Sherman Anti-Trust Act. By accepting the terms of the "Proposed Final Judgment" the corporation signals its intent to end the litigation and settle this issue as quickly as possible. It is a mark of Microsoft's statesmanship and good sense that it has accepted the judgment and will abide by the law. The Court has made its decision and all must accept it.

Incredibly, the states opposing this settlement want the Court to define future standards for engineering software in a competitive marketplace.

\* They want Microsoft to give its source code to competing software developers so that competitors can write new applications that will work off Microsoft's operating system.

\* They also want Microsoft to rewrite its operating system so that computer manufacturers can put onto Microsoft's system the programs of other companies, such as the Java program produced by Sun Microsystems.

In other words, the states invite the Court to anticipate and remedy future and unproven anti-competitive actions by Microsoft even though the development and future uses of software cannot be predicted. The states' remedy-to force additional disclosures beyond those in the Proposed Final Judgment, which the federal government has determined are sufficient to curb the company's anti-competitive practices-confuses aiding the process of competition with aiding specific competitors.

The technology of the information age is rapidly evolving. It is foolhardy for courts or policymakers to attempt to direct the future course of software applications. It is particularly inappropriate for courts to do this on the assumption that one company will act in bad faith and undertake anti-competitive practices in the future. This in effect is what the states advise the Court to do.

Sincerely,

Terrence Scanlon  
Chairman, Capital Research  
former Chairman, U.S.  
Product Safety Commission

Center and  
Consumer